Credentialing Resource Center Journal

Employed physicians: Managing poor performance

The following is an excerpt from The Medical Staff's Guide to Employed Physicians, *© HCPro, 2016.*

All practitioners—employed or not—are to be held to the same minimally defined medical staff standards for clinical care, professionalism, documentation, on-call responsibilities, and so forth. One of your responsibilities as a medical staff leader is to ensure that the expectations are adequate and that they are being met. If the health system employer chooses to have a higher standard, that is not the concern of the medical staff.

Another challenge as a medical staff leader is to help define, know, and support who will be responsible for managing nonconformance with expectations. Medical staff leaders need to understand that the process followed for nonconformance by employed physicians often will be very different than that outlined in medical staff documents. As seen previously, this understanding cannot be left to chance or a handshake.

As a medical staff leader, the best practice is to review and attest that a clear delineation of responsibilities is present in an existing policy that defines how common challenges will be addressed. If this has not occurred, or if existing documents need to be augmented, work with health system leadership to accomplish these tasks. If your organization has a chief medical officer (CMO), he or she may serve as the communication bridge between the medical staff and the health system. The CMO will likely have a good understanding of how your organization is actually structured and will bring the appropriate parties to the table to collaborate on proactive solutions. Using the Stephen Covey principle of "Begin with the end in mind," envision an outcome that will be a clearly delineated policy on addressing poor performance. This policy will be primarily concerned with "who does what." The actual "how it will be done" is generally documented elsewhere: In a medical staff process, the answers might be found in the medical staff bylaws or in associated documents, while in a health system process, they might be found in the employment agreement itself or in associated organizational policies.

Sample policy language

Your performance policy is more than a paper exercise to be dusted off for emergencies; it is a living guideline with a clear statement of what happens when common performance issues become problematic. Here is some sample language that your organization might use in policies addressing different types of concerns.

Clinical care

"Clinical care concerns involving imminent patient safety shall be handled in accordance with the medical staff bylaws. This policy addresses the routine ongoing professional practice evaluation of clinical care. Case review, evaluation, and recommendations shall be in accordance with the medical staff peer review process. Additionally, any evaluation or information concerning the clinical performance of an employed practitioner gathered through this peer review process shall be shared with the health system/employed physician group through a formal peer review sharing agreement. All information shared shall remain confidential and privileged to the fullest extent allowed by applicable law. Each agrees to notify the other of any event that raises a significant question about a practitioner's ability to safely and competently care for patients. Any recommendations for improvement made by the peer review committee shall be shared with the health system. The health system has the responsibility for implementation and any additional actions."

This policy clearly articulates that the work of peer case review will be conducted through the medical staff process. The major difference is that the information can and will be shared with the employer—whether that is the hospital itself or a separate hospital employed physician group practice. The concern of the medical staff is that its peer review recommendations are followed. The employer needs to honor this; however, it may choose to go beyond the medical staff recommendations and require additional measures. Any such measures are between the employer and the physician employee who have together entered into the employment agreement. They are the purview of the employer, not the medical staff. Once again, a health system's standards cannot be less rigorous than those of the medical staff, but they can be more rigorous. This is an example of good fences making good neighbors, as both parties now understand where their expectations and responsibilities begin and end.

Professional conduct

"All practitioners are expected to comply fully with the Joint Professional Conduct Policy of the medical staff and the health system. Any complaints regarding the professional behavior of a physician shall be handled in the

following manner: In the case of practitioners who are not employed or exclusively contracted by the hospital, such complaints will be handled through the medical staff–defined process for investigation, validation, and remediation of such complaints [note that in many medical staffs, this will be referred to a department chair, section chief, or medical staff officer for validation]. In the event of a professional conduct complaint regarding a practitioner in a specialty defined by the health system as an exclusive contract service, such complaints will be referred to the group's medical director and addressed as stipulated in the contract with the hospital for such services. If the com- plaint involves a practitioner employed by the hospital/health system, such complaints will be referred to [Options include medical director of employed physician group; the VP human resources; the CMO; or someone else depending on how your employed physician group is structured] for investigation, validation, and remediation consistent with the practitioner's employment agreement and the organizational defined process for investigation of such complaints."

This clearly delineates a process that avoids duplication of efforts. It also prevents placing employed practitioners in double jeopardy with both the medical staff bylaws process and the requirements of the employment agreement. In a similar fashion, this type of clarification can be applied to other metrics of performance, including medical record documentation, on-call responsibilities, response times for emergencies, or whatever else is of importance to your organization.

Editor's Note: To learn if/when termination of physician employment is reportable, click here.

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